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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,061	11/20/2006	Wilhelm Maurer	635.45828X00	7472
20457	7590	04/12/2010		
ANTONELLI, TERRY, STOUT & KRAUS, LLP			EXAMINER	
1300 NORTH SEVENTEENTH STREET			CHIN SHUE, ALVIN C	
SUITE 1800				
ARLINGTON, VA 22209-3873			ART UNIT	PAPER NUMBER
			3634	
			MAIL DATE	DELIVERY MODE
			04/12/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,061

Applicant(s)

MAURER ET AL.

Examiner

Alvin C. Chin-Shue

Art Unit

3634

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 6-18, 20-25, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6-18, 20-25, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Laborda. Laborda shows an arrangement for the ascent and/or descent of one or a plurality of persons on an object, characterized by at least one longitudinally extended rail-like profile 5, a climbing aid having at least two climbing console 12 having at least one platform 2o as well as a handle 57, as well as at least one force-transmitting element 30 and transverse bars at 10.

Claims 1, 2, 6 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Barringer shows an arrangement for the ascent and/or descent of one or a plurality of persons on an object, characterized by at least one longitudinally extended rail-like profile 11,12, a climbing aid having at least two climbing console having at least one platform 56 as well as a handle 61, as well as at least one force-transmitting element 43 and transverse bars at 31.

Claims 1,2,6,7,8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ho in fig. 10. Ho shows a handle at 110 and platform at 120 and two console in fig. 1 at 71.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho in view of Bennett. Ho in fig.10 and at 71 in fig.1 shows the claimed arrangement with the exception of the rack component and pinion element and gear. Bennett shows a pinion 26, rack 13 and a gear drive at 41. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho rack and pinion force transmitting means and gear drive, as taught by Bennett, by the substituted of one known force transmitting and drive means for another for their known advantages. The examiner takes OFFICIAL NOTICE that the provision of controls on handles is conventional, and the use of generators for feeding current to rechargeable battery pack that operate drive motors is conventional. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to comprise handles with his control and for his motors to be operated by generators and rechargeable battery packs, as set forth in claim 16, in view of the conventional teachings.

Claims 6-8,11,17,28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho in view of either Freeman or Maubach et al. Ho in fig.10 and at 71 in fig.1 shows the claimed arrangement with the exception of the centrifugal brake. Freeman shows a centrifugal brake at 100. Maubach shows a centrifugal brake at 18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to comprise a force transmitting element with a centrifugal brake, as taught by either Freeman or Maubach, to inhibit motion in a downward direction.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ho in view of either Freeman or Maubach et al, as applied to claim 17 above, and further in view of Forbes. Forbes teaches the practice of alternately lifting of a pair of consoles as a climbing method. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to alternately lift his consoles, as taught by Forbes, as a known method of climbing.

Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho in view of Schworer. Ho at 71 in fig.1 shows the claimed arrangement with the exception of the automatically controlled drive to enable alternating drive of the consoles. Schworer teaches automatically controlled drives to enable alternating movement of consoles. It would have been obvious to one of ordinary skill in the

art at the time the invention was made to modify Ho for his climbing aids to comprise automatically controlled drives, as taught by Schworer, to enable alternating movement of this aids. The examiner takes OFFICIAL NOTICE that the provision of controls on handles is conventional, and the use of generators for feeding current to rechargeable battery pack that operate drive motors is conventional. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to comprise handles with his control and for his motors to be operated by generators and rechargeable battery packs, as set forth in claim 22, in view of the conventional teachings.

Applicant's arguments filed 1/15/10 have been fully considered but they are not persuasive. With respect to Ho, HO shows two consoles in fig.1 at 71.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alvin C. Chin-Shue
Primary Examiner
Art Unit 3634

/Alvin C. Chin-Shue/
Primary Examiner, Art Unit 3634